

## Questions and Answers from 8/17/04 Formula Manual Webcast

### **Medical Support**

1. **Q: In many cases, the payee has Medicaid and pays nothing for co-pays, etc., so does the payee simply receive the \$289 per year as extra support?**

A: Pursuant to federal regulations, a support recipient who receives Medicaid only assigns medical support to the state. The payer's portion (based on their percentage of income) of the ordinary expense amount will be assigned to the state.

2. **Q: Are you going to send simplified handouts to all FOC offices for distribution to clients with regard to the medical changes?**

A: SCAO is preparing an informational pamphlet describing the changes in medical support. It includes a sample accounting worksheet for support recipients to use in tracking the children's ordinary medical expenses. The SCAO will electronically distribute this information to friend of the court offices, and post it on our website where local offices or parents may print the information as needed.

3. **Q: Does the payee have to bring in the bills for the ordinary expenses in addition to the extraordinary expenses for our review for enforcement?**

A: In order to request reimbursement of extraordinary medical expenses, the recipient must provide documentation that bills exceed the annual ordinary amount. The enforcement process for extraordinary medical expenses will be the same as your current process for enforcing uninsured expenses.

4. **Q: Has the forms committee prepared a form to send to the parties so they can provide all the medical information that will be necessary for us to consider?**

A: We plan to modify the forms used to gather information from the parents (e.g. FOC Questionnaire) to request additional information on the insurance coverage, premiums, and known or predictable additional medical costs.

Regarding handouts or brochures, the expense worksheet (mentioned in Question 2) developed by the SCAO will provide sufficient information to determine that the ordinary annual expense amount was met. Extraordinary expenses will continue to use the existing Demand for Medical Payment.

**5. Q: Will the new extraordinary expense policy automatically affect all orders or just modified orders?**

A: A change in the formula manual does not change an existing order. The manual's changes only affect cases when a new order is entered based on the new formula.

The ordinary medical expense revision changes when the friend of the court office becomes involved in medical expense enforcement. Without an ordered ordinary expense provision, the FOC continues to enforce all medical expenses as required by law.

**6. Q: If an order is dated 11-1-04, do we prorate the annual ordinary expense amount through the end of the year? .**

A: Since ordinary expense amounts are effective for a calendar year (i.e., January to December), in this example the ordinary expense only charges for November and December. 2004 MCSF 3.07(C)(4)(d) allows proration during periods when amounts are in effect.

In a case where a payer was ordered on November 1 to pay \$28 per month of a \$48.17 ordinary medical expense obligation for two children and 60% of all uninsured expenses that exceed the ordinary medical expense amounts, the payer only has responsibility for expenses that exceed \$96.34 (\$48.17 for two months). On January 1, a new annual ordinary health care expense amount begins and extraordinary expenses are those that exceed \$578.

**7. Q: Ordinary Expense Accounting – annual ordinary expense amount restarts every calendar year, can the year begin the date of the order or the calendar year?**

A: A calendar year means January through December. An amount in an order effective in June covers the remainder of the year, and does not include the following January through May. A new calendar year begins January 1.

**8. Q: Will guidelines automatically include calculations/recommendations for medical expenses/premiums after October or will we have to calculate manually?**

A: MiCSES current schedule has an updated guideline module scheduled for release in late October. The SCAO will be contracting for an external PC based application, and plans to provide additional written direction for trial courts and local FOC offices regarding implementation of the changes in the next few weeks.

Two software vendors have indicated they will have their product available before October 1.

9. **Q: Assume parent has spent \$289 in ordinary medical. If parent then purchases band aids or cough syrup, making the total \$294, is the \$5 considered extraordinary medical and to be proportionately paid by the non-custodian?**

A: 2004 MCSF 3.07(A)(3) defines bandages and cough syrup as remedial care items. Do not consider remedial care items as expenses that qualify as ordinary or extraordinary expenses. Remedial care items do not count towards meeting the annual ordinary expense amount and are not divided as extraordinary expenses.

If a payee provides qualifying expenses that meet the \$289 threshold along with bills for a \$10 prescription co-payment and \$5 for over-the-counter cough syrup and aspirin, calculate the payer's balance for the \$10 expense and disallow the \$5 for remedial care items.

10. **Q: When calculating the premiums – do we calculate the percentage of the premiums to each parent based on the guideline split?**

A: Yes, the formula bases the division of all costs on the same percentages, familiarly known as the medical percentages.

A new schedule was added to the 2004 manual, it contains the parent's percentages of income.

11. **Q: If you set the state up to receive money on a Medicaid only case, they will send the money back to the payee because there is no cash grant. Does the state know that you are proposing this?**

A: Pursuant to federal regulations, when receiving Medicaid, the recipient assigns medical support to the state. The payer's portion of the ordinary expenses amount goes to the state. Within MiCSES, the base support amount and ordinary medical expense amount are set up as different debt types. This allows the separate assignment of base support and medical expenses. In Medicaid only cases, the system will send the current base support amount to the recipient and the medical expense amount to the state.

12. **Q: Do the parties still have to send the statutory notice of medical expenditures within 28 days of occurrence or settlement of insurance claims**

**in order to request reimbursement of extraordinary expenses at the end of the year?**

A: Yes, but it will occur much less frequently. Fewer expenses qualify for payment as extraordinary expenses since the support recipient can only request enforcement when qualifying expenses exceed the annual ordinary medical amount.

- 13. Q: How can a recipient maintain both parents annual ordinary expense amounts? Doesn't this assume the parents are on speaking terms? Usually they aren't.**

A: The change to receiving ordinary medical expense amounts as part of every support payment actually improves the situation where parents are not on speaking terms. Instead of the payee having to contact the payer regarding every qualifying medical expense, the parties do not have any contact regarding medical expenses unless and until expenses exceed the annual ordinary medical amount. The payee only contacts the payer after exceeding the annual amount, if they want reimbursement for additional expenses. If the payee chooses to avoid the hassle, they just forego asking for the additional amount. The payer does not have to deal with requests for reimbursement or pay a share of every bill; rather, a regular predictable amount is paid for medical expenses with every support payment, and they receive requests for reimbursement of extraordinary amounts.

- 14. Q: Many insurance plans have a single extra amount for dependant coverage – whether 1, 2, 3, 4, or more kids. Do you calculate/adjust for the per-child premium in those cases? Slides 46-48**

A: Yes, anytime that a premium includes a child in the case under consideration or qualifying “other” child, the formula requires that a share of that premium be deducted from base support or subtracted from income. If the insurance covers other individuals, allowing parents to deduct a share of the premiums seems inherently fairer either allowing the parent to deduct the entire family premium, or not allowing any deduction.

Remember that health care coverage is an important form of child support. The formula already allows deduction of support orders for children in other cases, as well as adjusting income for “other” children. This provision treats health care coverage in a consistent manner.

- 15. Q: If the payer is already at 60%, do they just ignore the new medical costs or does the payer go in arrears?**

A: The 60% represents the payer's medical percentage required in 2004 MCSF 3.07(A)(5), which is based on the payer's respective share of total family net

income. It does not refer to the percentage of a payer's income already taken as support. For example, if two parents had a \$5,000 monthly net income (payer's income \$3,000 and payee's income \$2,000) the payer's income represents 60% of the total family net income.

**16. Q: Please explain the health care premium examples and why the first example divided by 3 people and the second example divided by 5 people.**

A: The two different examples involve different scenarios. In the first case, the payer covered two children and a new spouse (3 people). In the second case the payer covered two children, a new spouse, another child, and a stepchild.

The first example (on premiums for children in the case – 2004 MCSF 3.07(B)(3)) showed that the share of the premium for two of the three covered qualified for consideration, and that the cost for the new spouse did not. The second example (on other children – 2004 MCSF 2.12(E)) showed that the share for the one “other” child was deducted from income, but the shares for the two children in the case, the new spouse, and the step child were not deducted from income.

**17. Q: What was the answer to the questions on screen #46 (Premiums for children in the case) and #48 (“Other” children’s premiums)?**

A: In the first example, since the payee does not provide coverage, \$46.66 of the premiums for two children needs to be multiplied by the payer's percentage of family income (60%), so \$28 per month gets deducted from the payer's base support.

In the second example with only one qualifying “other” child, only the amount for one person is deducted (i.e., \$14). You would handle the amounts for the children in the case under consideration as a deduction from base support as explained in 2004 MCSF 3.07(B)(3).

## **Deviation**

**18. Q: How do you determine extraordinary educational expenses? Do parochial school expenses qualify if one party disagrees with this education?**

A: Deviations are case specific. The statutory definition of support includes educational expenses and does not distinguish between types of schools. The formula manual does not provide for calculation of expenses, nor the division of educational costs. Since the manual does not cover educational expenses, any

amount ordered paid through the friend of the court will be a deviation. Deviations are based on case specific findings of unjust or inappropriate results, which are the responsibility of the judge or referee.

**19. Q: What accumulated debt is considered – credit card debt? Or do you just consider IRS liens, court fines, etc?**

A: The manual states that a court may consider a reduction of income available due to extraordinary levels of jointly accumulated debt as a reason to consider deviation. The intent would not be to decrease child support because of normal debts (e.g., credit card, car loans, court fines, etc.). However, when parties (1) jointly accumulate extraordinary debt, and (2) not considering the extraordinary debt has an unjust or inappropriate result, the court may consider deviating.

### **Spousal Support**

**20. Q: What is the rationale for not counting spousal support as income (contrary to IRS)?**

A: The law requires that the court order child support, however spousal support is up to the discretion of the court. As a mandatory obligation, it is appropriate to base child support on the parties' incomes prior to determining the necessity of spousal support.

The formula defines what counts as "income" in child support calculations, much in the same way that the IRS rules define what counts as income for the purpose of federal taxes. The formula manual does not contradict the calculation of federal tax.

**21. Q: Are we going to receive a formula to use in determining spousal support?**

A: No, state law requires a child support formula and does not authorize a spousal support guideline.

### **Social Security Benefits**

**22. Q: Why do children's SS benefits count as payer income (not part of the custodian's household income)?**

A: Social security benefits based on the earning record of someone other than the non-custodial parent are treated as income to the payee, so benefits based on a payee's record were counted as payee income. Although allowing for offset of the benefits from the amounts the non-custodial parent paid through the friend of

the court, prior manuals were silent on how benefits paid on that parent's behalf were counted; some jurisdictions counted them as that income, while others did not.

The main reasons that those benefits should count as non-custodial parent income include (1) improving the equity in the treatment of types of income for all parents, (2) uniform statewide treatment of those benefits, and (3) to resolve the inequity of taking the benefits as a deduction from an amount paid while never considering them in anywhere as income.

**23. Q: Should SS benefits paid into a custodian's household for a child of another payer be counted as income?**

A: MCSF 2.05(B) only counts SS Benefits received by the children in the case as income. Benefits received on behalf of a child based on another payer's earnings record do not count as that child's custodian's income for this case.

**General**

**24. Q: When are these changes effective?**

A: The Supreme Court ordered changes effective October 1, 2004.

**25. Q: Will the MiCSES guidelines module incorporate the changes by 10/1/04?**

A: MiCSES current schedule has an updated guideline module scheduled for release in late October. The SCAO will be contracting for an external PC based application, and plans to provide additional written direction for trial courts and local FOC offices regarding implementation of the changes in the next few weeks. Two software vendors have indicated they will have their product available before October 1.

**26. Q: Will forms and pamphlets incorporating the changes be sent to the Friend of the Court office well in advance of the October 1 deadline?**

A: The informational pamphlet for parents, sample accounting worksheet, and the SCAO Medical Support Policy will be available and posted on the SCAO website prior to October 1, 2004.